



UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 15

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MAIL

In re Application of:  
Miyoshi et al.  
Application No.: 09/318,445  
Filed: May 25, 1999  
For: DIGITAL SUBSCRIBER LINE  
COMMUNICATING SYSTEM

DECISION  
SUA SPONTE  
WITHDRAWING  
HOLDING OF  
ABANDONMENT

MAR 25 2004  
DIRECTOR OFFICE  
TECHNOLOGY CENTER 2600

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A Notice of Allowance was mailed on June 19, 2003, which set a three (3) month statutory period for payment of the Issue fee. In the apparent absence of a timely filed payment of the Issue fee, or other appropriate action, the application was considered abandoned. A notice of abandonment had not yet been mailed.

37 C.F.R. § 1.114 Request for continued examination states in part:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in §

1.17(e) prior to the earliest of:

- (1) Payment of the issue fee, unless a petition under § 1.313 is granted;
- (2) Abandonment of the application; or
- (3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

Subsequent to the expiration of the three month statutory period of time for payment of the Issue fee, a Request for Continued Examination (RCE) was matched with the application and entered into the record. The RCE bears a date stamp entry into the Office of September 18, 2003. Therefore, the record is clear that the RCE was timely filed and the application was *not abandoned in fact*.

Therefore, although no petition or request to withdraw the holding of abandonment in this application has been filed, the holding of abandonment is withdrawn and the application restored to pending status in view of the timely submission of the Request for Continued Examination.

The petition is **GRANTED**.

The application is being forwarded to the examiner for appropriate action.

  
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